

## **REMARKS/ARGUMENTS**

### **A. Interview Summary Record**

Applicants cordially thank Examiner Smalley and Supervisory Primary Examiner Stashick for the interview on October 11, 2007 with Applicants' representatives, Tom Feix and Alok Goel. Items discussed in the 10/11/07 interview include proposed amendments to independent claim 1 which is included in this response and the patents which were cited as allegedly being obvious (Sherlock-U.S. Pat. No. 3,128,005; Morris-U.S. Pat. No. 6,170,691; Cassel- U.S. Pat. No. 5,152,416; Russell-U.S. Pat. No. 6,123,212).

### **B. Status of the Claims**

Claims 1-34 were originally filed. Claims 1-4, 6-17, 19-23 and 25-34 are currently pending.

Claims 1, 17, 23, 29 and 32 are amended by this response. For example, claim 1 is amended to recite that the inner wall of the container member has a length extending in a substantially vertically downward direction sufficient to define a first sealing surface such that a portion of the first sealing surface and the plurality of first threads are located substantially in a common horizontal plane. Additionally, claim 1 is further amended to recite that the inner wall of said closure member has a length extending in a substantially vertically downward direction sufficient to define a second sealing surface such that a portion of said second sealing surface and said plurality of second threads are located substantially in a common horizontal plane. Moreover, Applicants have amended claim 1 to recite that the first sealing surface in contact with said second sealing surface over a substantial length thereof. Support for this amendment may be found, for example, in FIGs. 6A-6C, FIG. 7, FIG. 8, FIG. 9 and FIG. 10 of the specification. Similar amendments have been made to independent claims 17, 23, 29 and 32. Applicants respectfully submit that the amendments add no new matter and are fully supported by the application as originally filed.

**C. Under 35 U.S.C. § 103(a)**

*Over Sherlock in view of Cassel*

Claims 1-4, 6-11, 14-17, 19-23 and 25-34 are rejected under 35 U.S.C. §103(a), as allegedly being unpatentable over Sherlock (U.S. Pat. No. 3,128,005) in view of Cassel (U.S. Pat. No. 5,152,416). The Examiner has cited Sherlock because Sherlock, in part, discloses a thermoformed polymer container with a rim including an inner wall and an externally-threaded skirt, and a closure with an inner wall and an internally-threaded skirt. The Examiner further states that the inner wall appears to be disposed at an angle of between 95-120 degrees with respect to the horizontal, and a tapered container inner wall of between 5-30 degrees. The Examiner reads an initial loosely-applied condition as the venting position, and the fully threaded position as the seal-effected first position. The Examiner has cited Cassel because Cassel, in part, discloses a threaded container with a lid seal and that the number of thread segments and their angular extend can be selected as desired. Applicants respectfully traverse. Applicants submit that the two references are missing at least two elements each which are present Applicants' currently pending claims.

In order to establish a *prima facie* case of obviousness, the Examiner must demonstrate that 1) the references teach all the claimed elements; 2) there is a suggestion or motivation in the prior art to modify or combine the reference teachings; and 3) there is a reasonable expectation of success. MPEP § 2143; In re Vaeck 20 USPQ2d 1438 (Fed. Cir. 1991). For the reasons described below, the cited references fail to establish a *prima facie* case of obviousness and Applicants respectfully traverse.

(1) Sherlock and Cassel fail to teach all of the elements

For the sole purpose of expediting prosecution, Applicants have amended claim 1 to recite that the inner wall of said container member has a length extending in a substantially vertically downward direction sufficient to define a first sealing surface such that a portion of said first sealing surface and said plurality of first threads are located substantially in a common horizontal plane. Additionally, Applicants have amended claim 1 to recite that the inner wall of

said closure member has a length extending in a substantially vertically downward direction sufficient to define a second sealing surface such that a portion of said second sealing surface and said plurality of second threads are located substantially in a common horizontal plane. Similar amendments have been made to claims 17, 23, 29 and 32 as well.

In contrast, Sherlock and Cassel both fail to teach that the inner walls do not have a length extending in a substantially vertically downward direction. See the figures of Sherlock and Cassel. Additionally, Sherlock also fails to disclose that the plurality of first and second threads are discontinuous. Moreover, Cassel further fails to teach that the sealing surface and the plurality of threads are substantially in a common horizontal plane.

Since Sherlock and Cassel fail to disclose that the inner wall of the container member (or closure member) has a length extending in a substantially vertically downward direction sufficient to define a first (or second) sealing surface such that a portion of the first (or second) sealing surface and the plurality of first (or second) threads are located substantially in a common horizontal plane and Sherlock further fails to teach that the threads are discontinuous and these are elements of Applicant's invention, Sherlock and Cassel fail to teach all of the claimed elements of Applicant's invention. Therefore, a *prima facie* case obviousness rejection cannot be maintained.

(2) There is no suggestion or motivation to modify teachings of the reference

As discussed above, Sherlock and Cassel both fail to suggest, implicitly or explicitly, that the inner walls have a length extending in a substantially vertically downward direction. See the figures of Sherlock and Cassel. Additionally, Sherlock also fails to disclose suggest, implicitly or explicitly, that the plurality of first and second threads are discontinuous. Moreover, Cassel further fails to suggest, implicitly or explicitly, that the sealing surface and the plurality of threads are substantially in a common horizontal plane. Therefore, a *prima facie* case of obviousness cannot be maintained.

(3) Sherlock and Cassel do not provide a reasonable expectation of success

Sherlock and Cassel also fail to provide a reasonable expectation of success in performing Applicant's invention. As mentioned earlier, there is nothing in Sherlock and Cassel that suggests that the inner walls have a length extending in a substantially vertically downward direction. Furthermore, Sherlock fails to suggest that the first and second threads are discontinuous. Cassel also fails to suggest that the sealing surface and the plurality of threads are substantially in a common horizontal plane. Therefore, Sherlock and Cassel offer no guidance to one of ordinary skill in the art regarding that the inner walls do not have a length extending in a substantially vertically downward direction, the plurality of first and second threads being discontinuous and the sealing surface and the plurality of threads are in substantially in a common horizontal plane. Therefore, a *prima facie* case of obviousness rejection cannot be maintained.

Because Sherlock and Cassel fail to teach all of the claimed elements, do not contain a suggestion or motivation to modify reference teachings and do not provide a reasonable expectation of success, a *prima facie* case of obviousness cannot be set forth. Thus, Applicants respectfully request withdrawal of the rejection.

Over Morris in view of Cassel

Claims 1-4, 6-11, 14-17, 19-23 and 25-34 are rejected under 35 U.S.C. §103(a), as allegedly being unpatentable over Morris *et al.* (U.S. Pat. No. 6,170,691) ("Morris") in view of Cassel. The Examiner has cited Morris because Morris, in part, discloses a thermoformed container with a rim including an inner wall and an externally-threaded skirt, and a closure with an inner wall and an internally-threaded skirt. The Examiner further states that the inner wall appears to be disposed at an angle of between 95-120 degrees with respect to the horizontal, and a tapered container inner wall of between 5-30 degrees. The Examiner reads an initial loosely-applied condition as the venting position, and the fully threaded position as the seal-effected first position. Cassel is cited for the reasons discussed above. Applicants respectfully traverse.

Applicants submit that the two references are missing at least one element which is present Applicants' currently pending claims.

(1) Morris and Cassel fail to teach all of the elements

As discussed above, Applicants have amended claim 1 to recite that the first sealing surface is in contact with the second sealing surface over a substantial length thereof when the first and second threads are in a first position. Similar amendments have been made to claims 17, 23, 29 and 32 as well.

In contrast, Morris fails to teach that when the first and second threads are in a first position, the first sealing surface is in contact with the second sealing surface over a substantial length thereof. Additionally, Morris also fails to disclose that the plurality of first and second threads are discontinuous. As discussed above, Cassel fails to teach that the sealing surface and the plurality of threads are substantially in a common horizontal plane.

Since Morris fails to teach the first sealing surface is in contact with the second sealing surface over a substantial length thereof when the first and second threads are in a first position and fails to teach discontinuous threads and Cassel fails to teach that the sealing surface and the plurality of threads are substantially in a common horizontal plane, Morris and Cassel fail to teach all of the claimed elements of Applicant's invention. Therefore, a *prima facie* case obviousness rejection cannot be maintained.

(2) There is no suggestion or motivation to modify teachings of the reference

As discussed above, Morris fails to suggest, implicitly or explicitly, when the first and second threads are in a first position, the first sealing surface is in contact with the second sealing surface over a substantial length thereof. See the figures of Morris. Additionally, Morris also fails to disclose suggest, implicitly or explicitly, that the plurality of first and second threads are discontinuous. Moreover, Cassel further fails to suggest, implicitly or explicitly, that the sealing surface and the plurality of threads are substantially in a common horizontal plane. Therefore, a *prima facie* case of obviousness cannot be maintained.

(3) Morris and Cassel do not provide a reasonable expectation of success

Morris and Cassel also fail to provide a reasonable expectation of success in performing Applicant's invention. As mentioned earlier, there is nothing in Morris that suggests when the first and second threads are in a first position, the first sealing surface is in contact with the second sealing surface over a substantial length thereof. Furthermore, Morris fails to suggest that the plurality of first and second threads are discontinuous. Cassel fails to suggest that the sealing surface and the plurality of threads are substantially in a common horizontal plane. Therefore, Morris and Cassel offer no guidance to one of ordinary skill in the art regarding the first sealing surface in contact with the second sealing surface over a substantial length thereof, the plurality of first and second threads being discontinuous, and the sealing surface and plurality of threads are substantially in a common horizontal plane. Therefore, a *prima facie* case of obviousness rejection cannot be maintained.

Because Morris and Cassel fail to teach all of the claimed elements, do not contain a suggestion or motivation to modify reference teachings and do not provide a reasonable expectation of success, a *prima facie* case of obviousness cannot be set forth. Thus, Applicants respectfully request withdrawal of the rejection.

Over Morris in view of Cassel, further in view of Russell

Claims 1-4, 6-11, 14-17, 19-23 and 25-34 are rejected under 35 U.S.C. §103(a), as allegedly being unpatentable over Morris in view of Cassel, further in view of Russell *et al.* (U.S. Pat. No. 6,123,212) ("Russell"). The characterizations of Morris and Cassel are described above. The Examiner has cited Russell because Russell, in part discloses, threading for a plastic container closure cap, comprising interlocking beads and guide channels on the container neck for stopping the removal of the cap at an intermediate venting stage and the connection appears to be capable of occurring in the closure applying direction. Applicants respectfully traverse. Applicants submit that the three references are missing at least one element which is present Applicants' currently pending claims.

(1) Morris, Cassel and Russell fail to teach all of the elements

As discussed above, Applicants have amended claim 1 to recite that the first sealing surface is in contact with the second sealing surface over a substantial length thereof when the first and second threads are in a first position. Similar amendments have been made to claims 17, 23, 29 and 32 as well.

In contrast, Morris fails to teach when the first and second threads are in a first position, the first sealing surface is in contact with the second sealing surface over a substantial length thereof. Additionally, Morris and Russell also fail to disclose that the first and second threads are discontinuous. As discussed above, Cassel fails to teach that the sealing surface and the plurality of threads are substantially in a common horizontal plane.

Since Morris fails to teach the first sealing surface is in contact with the second sealing surface over a substantial length thereof, and Morris and Russell also fail to disclose that the first and second threads are discontinuous and Cassel fails to teach that the sealing surface is in substantially in a common horizontal plane as the plurality of threads, Morris, Cassel and Russell fail to teach all of the claimed elements of Applicant's invention. Therefore, a *prima facie* case obviousness rejection cannot be maintained.

(2) There is no suggestion or motivation to modify teachings of the reference

As discussed above, Morris fails to suggest, implicitly or explicitly, when the first and second threads are in a first position, the first sealing surface is in contact with the second sealing surface over a substantial length thereof. Additionally, Morris and Russell also fail to disclose suggest, implicitly or explicitly, that the plurality of first and second threads are discontinuous. Moreover, Cassel further fails to suggest, implicitly or explicitly, that the sealing surface and the plurality of threads are in substantially in a common horizontal plane. Therefore, a *prima facie* case of obviousness cannot be maintained.

(3) Morris, Cassel and Russell do not provide a reasonable expectation of success

Morris, Cassel and Russell also fail to provide a reasonable expectation of success in performing Applicant's invention. As mentioned earlier, there is nothing in Morris that suggests when the first and second threads are in a first position, the first sealing surface is in contact with the second sealing surface over a substantial length thereof. Furthermore, Morris and Russell fail to suggest that the plurality of first and second threads are discontinuous. Cassel fails to suggest that the sealing surface and the plurality of threads are in substantially in a common horizontal plane. Therefore, Morris, Cassel and Russell offer no guidance to one of ordinary skill in the art regarding the first sealing surface is in contact with the second sealing surface over a substantial length thereof, the plurality of first and second threads being discontinuous, and the sealing surface and plurality of threads are substantially in a common horizontal plane. Therefore, a *prima facie* case of obviousness rejection cannot be maintained.

Because Morris, Cassel and Russell fail to teach all of the claimed elements, do not contain a suggestion or motivation to modify reference teachings and do not provide a reasonable expectation of success, a *prima facie* case of obviousness cannot be set forth. Thus, Applicants respectfully request withdrawal of the rejection.

### **CONCLUSION**

In view of the foregoing amendments and remarks, Applicants submit that the application is in condition for allowance. If, however, some issue remains which the Examiner feels may be addressed by Examiner's amendment, the Examiner is cordially invited to call the undersigned for authorization.

In view of the foregoing amendments and remarks, Applicants request entry of the amendments and reconsideration of the rejections. If some issue remains which the Examiner feels may be addressed by Examiner's amendment, the Examiner is cordially invited to call the undersigned for authorization.



In re Appln. of SAVICKI et al.  
Serial No.: 10/820,616

Please charge any additional fees, including fees for additional extensions of time, or credit overpayment to Deposit Account No. 03 2270.

Respectfully submitted,

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